



Monday
November 9, 1998

Part LXIV

**Surface
Transportation Board**

Semiannual Regulatory Agenda

SURFACE TRANSPORTATION BOARD (STB)

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Ch. X

[STB Ex Parte No. 536; Sub-No. 5]

Semiannual Regulatory Agenda

AGENCY: Surface Transportation Board, DOT.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Surface Transportation Board, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of: (1) Current and projected rulemakings and (2) existing regulations being reviewed to determine whether to propose modifications through rulemaking. Listed below are the regulatory actions to be developed or reviewed during the next 12 months. Following each rule identified is a brief description of the rule including its purpose and legal basis.

FOR FURTHER INFORMATION CONTACT: A contact person is identified for each of the rules listed below.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601

et seq. (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that, during the months of April and October of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda, which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

Accordingly, a list of proceedings appears below containing information about subject areas in which the Board is currently conducting rulemaking proceedings or may institute such

proceedings in the near future. It also contains information about existing regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda represents the Board's best estimate of rules which will be considered over the next 12 months. However, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

The Board is publishing its October 1998 regulatory flexibility agenda as part of the Unified Agenda of Federal Regulatory and Deregulatory Actions. The Unified Agenda of Federal Regulatory and Deregulatory Actions is coordinated by the Office of Management and Budget pursuant to Executive Order 12866. The Board is participating in the program voluntarily to assist OMB.

Decided: August 21, 1998.
By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,
Secretary.

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4728	Railroad Consolidation Procedures: Class Exemption for Transactions Subject to the Statutory Consolidation Provision, Ex Parte No. 282 (Sub-No. 15)	2140-AA03
4729	Safe Implementation of Board-Approved Transactions, STB Ex Parte No. 574	2140-AA50
4730	Market Dominance Determination—Product and Geographic Competition, STB Ex Parte No. 627	2140-AA51
4731	Expedited Relief for Service Inadequacies, STB Ex Parte No. 628	2140-AA52

Completed Actions

Sequence Number	Title	Regulation Identifier Number
4732	Rail General Exemption Authority—Exemption of Paints, Enamels, Lacquers, Shellacs, etc., Ex Parte No. 346 (Sub-No. 33)	2140-AA05
4733	Revisions to Regulations Governing Finance Applications Involving Motor Passenger Carriers, STB Ex Parte No. 559	2140-AA37
4734	Rail General Exemption Authority—Nonferrous Recyclables, STB Ex Parte No. 561	2140-AA39
4735	Rail Service Continuation Subsidy Standards, STB Ex Parte No. 566	2140-AA43

SURFACE TRANSPORTATION BOARD (STB)

Long-Term Actions

4728. RAILROAD CONSOLIDATION PROCEDURES: CLASS EXEMPTION FOR TRANSACTIONS SUBJECT TO THE STATUTORY CONSOLIDATION PROVISION, EX PARTE NO. 282 (SUB-NO. 15)**Priority:** Substantive, Nonsignificant**Legal Authority:** 49 USC 10321; 49 USC 10505; 49 USC 11341; 49 USC 11343 to 11346; 11 USC 1172; 45 USC 904; 45 USC 915; 5 USC 553; 5 USC 559**CFR Citation:** 49 CFR 1180**Legal Deadline:** None

Abstract: The Board is considering whether to expand the "nonconnecting carrier" class exemption to embrace all transactions subject to the statutory consolidation provision, except (1) transactions involving the merger or control of at least two class I railroads; (2) transactions involving a reduction in the number of noncommonly controlled railroads serving any two points; (3) transactions involving a reduction from three to two in the number of noncommonly controlled railroads serving any interchange points.

Timetable:

Action	Date	FR Cite
NPRM	07/14/92	57 FR 31165
NPRM Comment Period End	08/30/92	
Internal Review of Comments	00/00/00	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None

Additional Information: Statutory references to title 49 of the United States Code are prior to their amendment by the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803, which became effective on January 1, 1996.

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RIN: 2140-AA03

4729. SAFE IMPLEMENTATION OF BOARD-APPROVED TRANSACTIONS, STB EX PARTE NO. 574**Priority:** Substantive, Nonsignificant**Legal Authority:** 49 USC 10101**CFR Citation:** Not yet determined**Legal Deadline:** None

Abstract: The Surface Transportation Board has decided to proceed in a coordinated way with the United States Department of Transportation/Federal Railroad Administration to develop a notice of proposed rulemaking addressing procedures for the safe implementation of Board-approved transactions.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/97	62 FR 64193
ANPRM Comment Period End	02/19/98	
Internal Review of Comments	00/00/00	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None

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4730. • MARKET DOMINANCE DETERMINATION—PRODUCT AND GEOGRAPHIC COMPETITION, STB EX PARTE NO. 627**Priority:** Substantive, Nonsignificant**Legal Authority:** 49 USC 721; 49 USC 10707**CFR Citation:** None**Legal Deadline:** None

Abstract: The Surface Transportation Board is considering removing product and geographic competition as factors in market dominance determinations in railroad rate proceedings.

Timetable:

Action	Date	FR Cite
NPRM	04/29/98	63 FR 24588
NPRM Comment Period End	06/29/98	
Comments Under Review	00/00/00	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None

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4731. • EXPEDITED RELIEF FOR SERVICE INADEQUACIES, STB EX PARTE NO. 628**Priority:** Substantive, Nonsignificant**Legal Authority:** 49 USC 721; 49 USC 11102; 49 USC 11123; 49 USC 10705**CFR Citation:** 49 CFR 1146**Legal Deadline:** None

Abstract: The Surface Transportation Board proposes revised rules that would establish expedited procedures for shippers to obtain alternative service from another rail carrier when the incumbent carrier cannot properly serve shippers.

Timetable:

Action	Date	FR Cite
NPRM	05/12/98	63 FR 27253
NPRM Comment Period End	07/15/98	
Comments Under Review	00/00/00	

Regulatory Flexibility Analysis Required: No**Government Levels Affected:** None

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SURFACE TRANSPORTATION BOARD (STB)

Completed Actions

4732. RAIL GENERAL EXEMPTION AUTHORITY—EXEMPTION OF PAINTS, ENAMELS, LACQUERS, SHELLACS, ETC., EX PARTE NO. 346 (SUB-NO. 33)**Priority:** Substantive, Nonsignificant**Legal Authority:** 49 USC 10321; 49 USC 10505; 49 USC 10708; 49 USC 10762; 49 USC 11105; 5 USC 553**CFR Citation:** 49 CFR 1039**Legal Deadline:** None**Abstract:** The Surface Transportation Board has decided not to exempt from regulation the rail transportation of paints, enamels, lacquers, shellacs, and other commodities included within Standard Transportation Commodity Code (STCC) No. 285.**Timetable:**

Action	Date	FR Cite
NPRM	10/21/93	58 FR 54318
NPRM Comment Period End	11/22/93	
Withdrawn	04/20/98	

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** None**Additional Information:** This proceeding was discontinued by decision served April 20, 1998. Notice of the decision was not published in the Federal Register.**Agency Contact:** Joseph H. Dettmar, Deputy Director, Office of Proceedings, Surface Transportation Board, 1925 K Street NW., Washington, DC 20423-0001

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RIN: 2140-AA05**4733. REVISIONS TO REGULATIONS GOVERNING FINANCE APPLICATIONS INVOLVING MOTOR PASSENGER CARRIERS, STB EX PARTE NO. 559****Priority:** Substantive, Nonsignificant**Reinventing Government:** This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.**Legal Authority:** 5 USC 552(a)(4)(A); 5 USC 553; 31 USC 9701; 49 USC 721(a); 49 USC 14303**CFR Citation:** 49 CFR 1002.2(f)(2); 49 CFR 1002.2(f)(5); 49 CFR 1182; 49 CFR 1187; 49 CFR 1188**Legal Deadline:** None**Abstract:** The Surface Transportation Board has revised the procedures governing finance applications involving motor passenger carriers filed under 49 USC 14303. The regulations at 49 CFR parts 1187 and 1188 were removed and replaced by new provisions incorporated at 49 CFR part 1182.**Timetable:**

Action	Date	FR Cite
NPRM	07/08/97	62 FR 36477
NPRM Comment Period End	08/07/97	
Final Action	09/01/98	63 FR 46394
Final Action Effective	10/01/98	

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** None**Agency Contact:** Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 1925 K Street NW., Washington, DC 20423-0001

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RIN: 2140-AA37**4734. RAIL GENERAL EXEMPTION AUTHORITY—NONFERROUS RECYCLABLES, STB EX PARTE NO. 561****Priority:** Substantive, Nonsignificant**Reinventing Government:** This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.**Legal Authority:** 5 USC 553; 49 USC 10502; 49 USC 13301**CFR Citation:** 49 CFR 1039**Legal Deadline:** None**Abstract:** The Surface Transportation Board has exempted from regulation the rail transportation of 29 nonferrous recyclables.**Timetable:**

Action	Date	FR Cite
NPRM	05/16/97	62 FR 27003
NPRM Comment Period End	07/15/97	

Action	Date	FR Cite
Final Action	04/21/98	63 FR 19663
Final Action Effective	05/21/98	

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** None**Additional Information:** This rulemaking embraces and expands the proposed rulemaking in Ex Parte No. 346 (Sub-No. 36), which was issued by the former Interstate Commerce Commission. That proceeding was discontinued on May 5, 1997.**Agency Contact:** Beryl Gordon, Deputy Director, Office of Proceedings, Surface Transportation Board, 1925 K Street NW., Washington, DC 20423-0001

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RIN: 2140-AA39**4735. RAIL SERVICE CONTINUATION SUBSIDY STANDARDS, STB EX PARTE NO. 566****Priority:** Substantive, Nonsignificant**Reinventing Government:** This rulemaking is part of the Reinventing Government effort. It will eliminate existing text in the CFR.**Legal Authority:** 49 USC 721(a)**CFR Citation:** 49 CFR 1155**Legal Deadline:** None**Abstract:** The Surface Transportation Board has removed from the Code of Federal Regulations rules concerning standards for determining subsidies for the continuation of rail service on rail properties not transferred to Consolidated Rail Corporation under the Final System Plan pursuant to the Rail Reorganization Act of 1973. Regulations concerning offers of financial assistance were also amended to provide rules for the purchase or subsidization of rail lines that have been continuously subsidized since the inception of the Final System Plan.**Timetable:**

Action	Date	FR Cite
NPRM	08/08/97	62 FR 42734
NPRM Comment Period End	09/08/97	
Final Action	05/22/98	63 FR 28287
Final Action Effective	06/21/98	

Regulatory Flexibility Analysis**Required:** No

STB

Completed Actions

Government Levels Affected: None**Agency Contact:** Beryl Gordon, Deputy
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[FR Doc. 98-23557 Filed 11-06-98; 8:45 am]

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